

THE STATE OF NEW HAMPSHIRE
DEPARTMENT OF ENVIRONMENTAL SERVICES
WASTE MANAGEMENT COUNCIL

In re: North Country Environmental Services, Inc.
Standard Permit No.: DES-SW-SP-03-002

Docket #03-05WMC

RECEIVED

MAY 15 2003

**RESPONSE TO TOWN'S MOTION TO
EXTEND TIME AND FOR CONTINUANCE**

Intervenor, North Country Environmental Services, Inc. ("NCES"), submits the following response to the Town of Bethlehem's Motion to Extend Time and for Continuance.

NCES has no objection to a continuance of the May 22, 2003, hearing and the deadline for the filing of Env-WMC 203.15 supplemental materials to allow the council the opportunity to consider the motions pending before it. Neither does NCES object to an extension until May 16, 2003, for the town's response to NCES's motion to dismiss.

To the extent, however, that the town relies upon the unexplained "unavailability" of Thomas Roy for the May 22 hearing, NCES does object to the town's motion. The town's appeal raises only two categories of issues: (1) application of RSA 149-M:11, the public-benefit statute, and (2) the waste management division's adherence to its procedural rules. Mr. Roy is an engineer, and he is not qualified to testify as to the meaning of a statute or the division's rules. It is the role of the town's lawyers to argue their case; it is inappropriate to allow the town to attempt to present legal argument in the guise of an engineering opinion.

For these reasons, NCES expects to file a motion to preclude Mr. Roy from testifying if the council proceeds with a hearing. Because the town has made no showing that Mr. Roy's testimony is

relevant or competent with respect to the issues it has raised on appeal, Mr. Roy's unavailability should have no bearing on whether to continue the hearing.

Respectfully Submitted,

NORTH COUNTRY ENVIRONMENTAL
SERVICES, INC.,
By Its Attorneys,
BROWN OLSON & WILSON, P.C.

Date: **5-14-03**

By:

COPY
Bryan K. Gould

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CERTIFICATE OF SERVICE

I hereby certify that the within document was this day forwarded via U.S. Mail, postage prepaid, to Edmund J. Boutin, Esq. and Brenda E. Keith, Esq., Boutin Associates, P.L.L.C., One Buttrick Road, P.O. Box 1107, Londonderry, NH 03053 and to Maureen D. Smith, Senior Assistant Attorney General, Environmental Protection Bureau, Department of Justice, 33 Capitol Street, Concord, NH 03301-6397.

Date: **5-14-03**

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Bryan K. Gould, Esq.